

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

Bky. No. 08-44465

In Re:

Insignia Development, LLC,
Debtor.

Randall L. Seaver,
Chapter 7 Trustee,
Plaintiff,

Adv. No. _____

vs.

Forest Creek Development II, LLC,
Defendant.

ADVERSARY COMPLAINT

Randall L. Seaver, Chapter 7 Trustee (“Trustee” or “Plaintiff”) of the Insignia Development, LLC bankruptcy estate (“Debtor”), as and for his Complaint against Defendant Forest Creek Development II, LLC (“Defendant”), states and alleges as follows

1. This adversary proceeding is a core proceeding under 28 U.S.C. § 157.
2. This Complaint is brought under Bankruptcy Rule 7001, and this action arises under 11 U.S. C. §§ 544, 547, 548, 550 and other applicable law. This Court has jurisdiction over this adversary proceeding. This adversary proceeding is authorized under 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 7001 and Local Rule 1070-1.
3. Upon information and belief, Defendant is a Minnesota limited liability company.
4. On September 2, 2008, an involuntary Chapter 7 Petition was filed against the Debtor (the “Petition Date”). The Order for relief was entered on September 24, 2008. The Court appointed Randall L. Seaver as Trustee.

5. Upon information and belief, Defendant was an "insider," as defined by 11 U.S.C. § 101(31), of Debtor.

FIRST CAUSE OF ACTION
(Avoidance of Transfer Pursuant to 11 U.S.C. § 547)

6. Within 90 days, or between 90 days and 1 year of the Petition Date, the Debtor transferred to the Defendant interest in real property legally described on the attached Exhibit A, the exact value of such transfer to be proven at trial (collectively, the "Transfer").

7. Plaintiff reserves the right to include within the Transfer any and all other pre-petition transfers which may be avoidable by Plaintiff under applicable law as may be disclosed upon further investigation.

8. At all times material herein, Defendant was a creditor of the Debtor.

9. The Transfer was made to or for the benefit of the Defendant.

10. The Transfer was made for, or on account of, an antecedent debt owed by the Debtor before such transfer was made.

11. The Transfer was made on or within 90 days, or between 90 days and 1 year before the Petition Date.

12. The Transfer was made while the Debtor was insolvent.

13. The Transfer enabled the Defendant to receive more than it would receive if:

(a) the case were a case under Chapter 7 of the United States Bankruptcy Code;

(b) the Transfer had not been made; and

(c) the Defendant received payment on the debt it was owed to the extent provided by the Bankruptcy Code.

14. The Transfer to the Defendant is avoidable pursuant to 11 U.S.C. § 547.

SECOND CAUSE OF ACTION
(Avoidance of Transfer Pursuant to 11 U.S.C. §§ 544(b) and 548)

15. Plaintiff repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.
16. The Debtor made such Transfer or incurred such obligation with actual intent to hinder, delay or defraud entities to which the Debtor was or became, on or after the date that such Transfer was made or such obligation was incurred, indebted.
17. The Debtor whose property or whose interest in property was transferred in the Transfer received less than a reasonably equivalent value in exchange for such Transfer.
18. The Transfer was made (a) at a time when Debtor was engaged or was about to engage in business or transactions for which the remaining assets of Debtor were unreasonably small in relation to the business and transactions; (b) at a time when Debtor intended to incur, or believed or should reasonably have believed that he would incur, debts beyond his ability to pay as they became due; (c) at a time when Debtor was insolvent or; (d) with the result that Debtor became insolvent as a result of such Transfer.
19. Accordingly, the Transfer should be avoided and set aside as fraudulent under 11 U.S.C. §§ 544(b), 548 and state law.

THIRD CAUSE OF ACTION
(Recovery of Transfer Pursuant to 11 U.S.C. § 550)

20. Plaintiff repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.
21. Defendant is the initial transferee of the Transfer.
22. Alternatively, if Defendant is not the initial transferee of the Transfer, Defendant is the immediate or mediate transferee of the initial transferee.

23. By reason of the foregoing, the Plaintiff is entitled to recover the Transfer pursuant to § 550 of the Bankruptcy Code.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter an Order:

- A. Avoiding the Transfer described in this Complaint;
- B. Entering judgment in favor of Plaintiff and against Defendant for the value of the Transfer, the exact amount to be proven at trial, plus interest, Plaintiff's costs and disbursements and such attorney's fees and other expenses as the Court may allow;
- C. Granting Plaintiff such other relief as this Court deems just and proper.

Dated this 22nd day of September, 2010.

/e/ Mary Kay Mages
Michael S. Dove #214310
Mary Kay Mages #0339313
Charles W. Hanson #0387438
GISLASON & HUNTER LLP
Attorneys for Plaintiff
2700 South Broadway
P. O. Box 458
New Ulm, MN 56073-0458
Phone: 507-354-3111
Fax: 507-354-8447

EXHIBIT A
Forest Creek Development II, LLC

| PID # | Legal Description |
|--------------|--|
| 103213001030 | Lot 3, Block 1, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213002040 | Lot 4, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213002060 | Lot 6, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213002070 | Lot 7, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213002100 | Lot 10, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213002110 | Lot 11, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213003040 | Lot 4, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213003060 | Lot 6, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213003070 | Lot 7, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213003090 | Lot 9, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213003100 | Lot 10, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213003120 | Lot 12, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213003130 | Lot 13, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213004010 | Lot 1, Block 4, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213004050 | Lot 5, Block 4, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213005170 | Lot 17, Block 5, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006010 | Lot 1, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |

| PID # | Legal Description |
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| 103213006020 | Lot 2, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006030 | Lot 3, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006040 | Lot 4, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006050 | Lot 5, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006070 | Lot 7, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006100 | Lot 10, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006140 | Lot 14, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006150 | Lot 15, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006190 | Lot 19, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 103213006290 | Lot 29, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota |
| 112038001010 | Lot 1, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001020 | Lot 2, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001030 | Lot 3, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001040 | Lot 4, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001050 | Lot 5, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001060 | Lot 6, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001070 | Lot 7, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001080 | Lot 8, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001090 | Lot 9, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |

| PID # | Legal Description |
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| 112038001100 | Lot 10, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001110 | Lot 11, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001120 | Lot 12, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001130 | Lot 13, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001140 | Lot 14, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001150 | Lot 15, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001160 | Lot 16, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001170 | Lot 17, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001180 | Lot 18, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001190 | Lot 19, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001200 | Lot 20, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001210 | Lot 21, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001220 | Lot 22, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001230 | Lot 23, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001240 | Lot 24, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001250 | Lot 25, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001260 | Lot 26, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001290 | Lot 29, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001300 | Lot 30, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |

| PID # | Legal Description |
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| 112038001310 | Lot 31, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001320 | Lot 32, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001330 | Lot 33, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001340 | Lot 34, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001350 | Lot 35, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001360 | Lot 36, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001370 | Lot 37, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001380 | Lot 38, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001400 | Lot 40, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001430 | Lot 43, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001440 | Lot 44, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001450 | Lot 45, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001460 | Lot 46, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001470 | Lot 47, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038002010 | Lot 1, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038002020 | Lot 2, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038002030 | Lot 3, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038002050 | Lot 5, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038002060 | Lot 6, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |

| PID # | Legal Description |
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| 112038002070 | Lot 7, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038003010 ?- owner Kevin Pawlitschek | Lot 1, Block 3, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038003020 | Lot 2, Block 3, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038004010 | Lot 1, Block 4, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038004020 | Lot 2, Block 4, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038005010 | Lot 1, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038005020 | Lot 2, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038005030 | Lot 3, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038005040 | Lot 4, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038005050 | Lot 5, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006010 | Lot 1, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006020 | Lot 2, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006030 | Lot 3, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006040 | Lot 4, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006050 | Lot 5, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006060 | Lot 6, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006070 | Lot 7, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006080 | Lot 8, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006090 | Lot 9, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |

| PID # | Legal Description |
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| 112038006100 | Lot 10, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006110 | Lot 11, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006120 | Lot 12, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006140 | Lot 14, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006150 | Lot 15, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006160 | Lot 16, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006170 | Lot 17, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006180 | Lot 18, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006190 | Lot 19, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006200 | Lot 20, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038006220 | Lot 22, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 102038006230 | Lot 23, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038007010 | Lot 1, Block 7, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038007020 | Lot 2, Block 7, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008020 | Lot 2, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008040 | Lot 4, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008050 | Lot 5, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008060 | Lot 6, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008080 | Lot 8, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |

| PID # | Legal Description |
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| 112038008110 | Lot 11, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008120 | Lot 12, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008160 | Lot 16, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008170 | Lot 17, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008210 | Lot 21, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008250 | Lot 25, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008270 | Lot 27, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 114038008440 | Lot 44, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008450 | Lot 45, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008460 | Lot 46, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008480 | Lot 48, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008490 | Lot 49, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008500 | Lot 50, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008510 | Lot 51, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008520 | Lot 52, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008530 | Lot 53, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008540 | Lot 54, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038008550 | Lot 55, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |
| 112038001390 | Lot 39, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota |